

Senator Wendy Davis

June 6, 2012

<p>IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA</p> <p>STATE OF TEXAS )                   )                   )                   ) VS.              ) NO. 12-CV-128                   ) (DST, RMC, RLW)                   ) ERIC H. HOLDER, JR., ) ET AL           )</p> <hr/> <p>***** ORAL DEPOSITION OF SENATOR WENDY DAVIS *****</p> <p>ANSWERS AND DEPOSITION OF SENATOR WENDY DAVIS, a witness called by the United States taken before Janalyn Reeves, Certified Shorthand Reporter for the State of Texas, on the 6th day of June, 2012, between the hours of 1:30 p.m. and 3:48 p.m., at 48 East Avenue, Austin, Texas, pursuant to the agreement of counsel for the respective parties as hereinafter set forth.</p>	<p style="text-align: right;">1</p> <p style="text-align: center;"><b>INDEX</b></p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;">1</th> <th style="width: 80%;">PAGE</th> <th style="width: 10%; text-align: right;">3</th> </tr> </thead> <tbody> <tr><td>2</td><td>Appearances.....</td><td style="text-align: right;">2</td></tr> <tr><td>3</td><td>SENATOR WENDY DAVIS</td><td></td></tr> <tr><td>4</td><td>    Examination by Mr. Frederick .....</td><td style="text-align: right;">4</td></tr> <tr><td>5</td><td>Signature and Changes .....</td><td style="text-align: right;">82</td></tr> <tr><td>6</td><td>Reporter's Certificate .....</td><td style="text-align: right;">84</td></tr> <tr><td>7</td><td></td><td></td></tr> <tr><td>8</td><td></td><td></td></tr> <tr><td>9</td><td></td><td></td></tr> <tr><td>10</td><td></td><td></td></tr> <tr><td>11</td><td></td><td></td></tr> <tr><td>12</td><td></td><td></td></tr> <tr><td>13</td><td></td><td></td></tr> <tr><td>14</td><td></td><td></td></tr> <tr><td>15</td><td></td><td></td></tr> <tr><td>16</td><td></td><td></td></tr> <tr><td>17</td><td></td><td></td></tr> <tr><td>18</td><td></td><td></td></tr> <tr><td>19</td><td></td><td></td></tr> <tr><td>20</td><td></td><td></td></tr> <tr><td>21</td><td></td><td></td></tr> <tr><td>22</td><td></td><td></td></tr> <tr><td>23</td><td></td><td></td></tr> <tr><td>24</td><td></td><td></td></tr> <tr><td>25</td><td></td><td></td></tr> </tbody> </table> <p style="text-align: right;">2</p> <p style="text-align: center;"><b>APPEARANCES</b></p> <p>1 FOR THE PLAINTIFF, STATE OF TEXAS: 2 OFFICE OF THE ATTORNEY GENERAL 3 By: MR. MATTHEW FREDERICK 4 209 West 14th Street 5 Austin, Texas 78701 6 PH: (512) 936-2779</p> <p>7 FOR THE DEFENDANT: 8 DEPARTMENT OF JUSTICE 9 By: MR. VICTOR WILLIAMSON 10 950 Pennsylvania Avenue, NW 11 Washington, DC 20530 12 PH: (800) 253-3931</p> <p>13 FOR THE INTEVENORS: 14 BRAZIL AND DUNN 15 By: MR. CHAD DUNN 16 4201 Cypress Creek Parkway 17 Suite 530 18 Houston, Texas 77068 19 Ph: (281) 580-6310</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">4</p> <p>1 SENATOR WENDY DAVIS, 2 having being first duly sworn, testified as follows: 3 EXAMINATION 4 BY MR. FREDERICK: 5 Q. Good afternoon, Senator Davis. My name is Matt 6 Frederick. I'm with the Texas Attorney General and I 7 represent the State of Texas. Would you please state 8 your full name for the record? 9 A. Wendy Russell Davis. 10 Q. Senator Davis, have you been deposed before? 11 A. Yes, I have. 12 Q. How many times? 13 A. Once. 14 Q. And do you remember the case that that was for? 15 A. Yes, it was in our redistricting litigation. 16 Q. Is there anything that will prevent you from 17 accurately answering my questions today? 18 A. No. 19 Q. Okay. Just in case you don't remember from your 20 redistricting experience, I'll go over some brief ground 21 rules. One, answer audibly so the court reporter can 22 get it on the record. So rather than nodding your head 23 say, "yes"?</p> <p>24 A. Okay. 25 Q. If you don't understand a question I ask, please let me know and I'll be happy to rephrase. Okay? A. Okay.</p>	1	PAGE	3	2	Appearances.....	2	3	SENATOR WENDY DAVIS		4	Examination by Mr. Frederick .....	4	5	Signature and Changes .....	82	6	Reporter's Certificate .....	84	7			8			9			10			11			12			13			14			15			16			17			18			19			20			21			22			23			24			25		
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<p>1 Q. And again, so the court reporter can get 2 everything on the record, please try and wait until I 3 finish my question to start answering. I will also try 4 and not answer -- not ask a question while you are 5 answering.</p> <p>6 A. Okay.</p> <p>7 Q. Your lawyer may object to a question. Unless he 8 instructs you not to answer, you may still answer the 9 question.</p> <p>10 A. All right.</p> <p>11 Q. Are you represented by council today?</p> <p>12 A. I am.</p> <p>13 Q. And who is that?</p> <p>14 A. Chad Dunn is here with me today. I'm also 15 represented by Jerry Hebert.</p> <p>16 Q. Okay. When did that representation begin?</p> <p>17 A. I don't recall.</p> <p>18 Q. What did you do to get ready for your deposition 19 today?</p> <p>20 A. I reviewed, by e-mail, a few of the amendments 21 that I had introduced during the voter ID debate on the 22 Senate floor.</p> <p>23 Q. Anything else?</p> <p>24 A. That's it.</p> <p>25 Q. Okay. Did you meet with anybody to prepare for</p>	<p>5</p> <p>1 A. No.</p> <p>2 Q. Do you have a passport?</p> <p>3 A. Yes.</p> <p>4 Q. Are there other members of your household who are 5 voting age?</p> <p>6 A. Yes.</p> <p>7 Q. Are the voting age individuals in your household 8 registered to vote?</p> <p>9 A. Yes.</p> <p>10 Q. And do those individuals have a current Texas 11 driver's license?</p> <p>12 A. Yes.</p> <p>13 Q. Can you describe, generally, your own involvement 14 with Senate Bill 14?</p> <p>15 A. Yes. I participated in a dialogue and a debate 16 about the bill on the Senate floor. I opposed the bill 17 and introduced amendments that I thought could improve 18 upon it.</p> <p>19 Q. Do you recall how many amendments you offered?</p> <p>20 A. I do not. Probably less than ten.</p> <p>21 Q. Were any of those amendments accepted?</p> <p>22 A. One was. But not as I had offered it. I offered 23 an amendment that addressed the issue of persons who 24 were indigent. To provide an opportunity for them to 25 vote a provisional ballot by swearing to their indigency</p>
<p>1 your deposition?</p> <p>2 A. No, I did not.</p> <p>3 Q. Did you talk to your lawyer?</p> <p>4 A. Yes.</p> <p>5 Q. How many times did you meet with your lawyer 6 before your deposition?</p> <p>7 A. I didn't meet with him. We had one very brief 8 phone conversation yesterday.</p> <p>9 Q. Did anyone else participate in that phone 10 conversation?</p> <p>11 A. No.</p> <p>12 Q. Have you spoken to anyone else about your 13 deposition today?</p> <p>14 A. No.</p> <p>15 Q. And other than the amendments that you mentioned, 16 did you review any other documents to prepare for your 17 deposition?</p> <p>18 A. No.</p> <p>19 Q. Did you bring any documents with you today?</p> <p>20 A. I did not.</p> <p>21 Q. Are you currently registered to vote?</p> <p>22 A. Yes.</p> <p>23 Q. Do you have a current Texas driver's license?</p> <p>24 A. Yes.</p> <p>25 Q. Do you have a concealed handgun license?</p>	<p>6</p> <p>1 and allowing the election judge to accept their vote.</p> <p>2 That was modeled after what I had read in the Supreme 3 Court opinion that upheld the Indiana voter ID law.</p> <p>4 The Court specifically noted that the indigency 5 exception was included in that law. And from my reading 6 of the Supreme Court opinion, they believed that it was 7 constitutional based on the fact that that exception had 8 been included within it. I argued that point on the 9 Senate floor. The amendment was tabled.</p> <p>10 But Senator Duncan, I think, considering my 11 arguments, at some point during the debate asked that an 12 amendment be drawn up under his name that did, 13 essentially, the same thing. He actually improved the 14 way it was written, I thought. And he introduced the 15 amendment then and asked that I be shown also as an 16 author of that amendment since I had originally 17 introduced it. And it was included in the Senate bill. 18 But it's my understanding that it was stripped out in 19 the conference committee.</p> <p>20 Q. And in your understanding, was it stripped in the 21 Senate conference committee or by the House conference 22 committee?</p> <p>23 A. I don't know.</p> <p>24 Q. Under that amendment did it provide -- and I'll 25 ask about your original amendment for now. You said it</p>



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<p>1 allowed an indigent person to sign an affidavit of 2 indigency; is that right?</p> <p>3 A. Yes.</p> <p>4 Q. And would that, assuming that the affidavit were 5 accepted, would that allow the vote to be counted?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. So it wasn't just a provisional ballot 8 that would have to be cured at a later date?</p> <p>9 A. I believe that's true, though that is not one of 10 the amendments that I went back and read. The one that 11 actually was included that Senator Duncan introduced, so 12 I don't recall. But I'm sure it's very easy to find.</p> <p>13 Q. Okay. And to the extent you can recall, did 14 Senator Duncan's amendment that listed you as a 15 co-author, did it also provide that an indigent person 16 could swear -- could sign an affidavit and have his or 17 her vote counted?</p> <p>18 A. Yes.</p> <p>19 Q. And so it would not have to be cured later by 20 showing a photo ID?</p> <p>21 A. I think that's correct, yes.</p> <p>22 Q. Why -- why did you offer an amendment providing 23 for an accommodation for indigent voters?</p> <p>24 A. One of the pieces of information that I 25 introduced during the debate, I had a large display</p>	<p>9</p> <p>1 where their right to vote, which they currently exercise 2 today, would be threatened.</p> <p>3 Q. So you were concerned that because of the 4 potential costs that might be imposed as a result of an 5 ID requirement, that a person might not be able to 6 afford to get an ID; is that right?</p> <p>7 A. That's right.</p> <p>8 Q. Was it your understanding or belief that an 9 exception allowing for indigent voters to sign an 10 affidavit rather than present photo ID, was it your 11 understanding that that amendment would have alleviated 12 any negative effect of SB 14?</p> <p>13 A. It would have alleviated a significant negative 14 effect. But there were other amendments that I offered 15 as well that were unique, they each had unique concerns 16 behind them that were also important, I felt.</p> <p>17 Q. I believe it was said on the Senate floor that 18 there was a concern that SB 14, if enacted, would have 19 some impact on African-American and Latino voters; is 20 that right?</p> <p>21 A. Yes.</p> <p>22 Q. And is that your -- is that your belief about 23 SB 14 as well?</p> <p>24 A. My belief about SB 14 is that it has a uniquely 25 negative impact on persons who are currently voting</p>
<p>1 board that I had created for purposes of introducing 2 that amendment. And on the display board I demonstrated 3 the underlying documentation that is required in the 4 State of Texas in order to be issued, either a driver's 5 license or a State ID through the Department of Public 6 Safety. And each of those underlying documents has a 7 cost associated with them. For example, a birth 8 certificate. I don't remember what some of the others 9 were, a passport.</p> <p>10 And I demonstrated the circularity that occurs in 11 order to get this document, you need to have these 12 underlying documents. And in order to get a different 13 document, you needed some of the same underlying 14 documents. And for each ID or form of ID that was 15 acceptable, subsumed within them were other forms of ID 16 that also cost money.</p> <p>17 My concern was that, based on information that we 18 received as part of the hearing and also in the hearing 19 in the prior legislative session, a number of persons 20 who do not have current State IDs and yet who are 21 currently legally voting, do not have the underlying 22 documentation in order to go and get those IDs. I was 23 concerned that a person who didn't have the means to be 24 able to get the underlying documents, even if the State 25 ID were offered to them for free, would be in a position</p>	<p>10</p> <p>12</p> <p>1 today, and who do not have the means to go out and get 2 an adequate form of ID under the way that that law was 3 passed. Information that was presented to us as part of 4 that hearing and part of the legislative session 5 indicated that that disproportionately impacted persons 6 of color, Latino and African-American primarily.</p> <p>7 <i>I also had concerns about persons who were voting 8 today who would not have their vote accepted in the 9 future. Not because they didn't have the means to 10 receive an ID, but because there may be some unintended 11 or unknown discrepancy on their voter ID card and their 12 State ID.</i></p> <p>13 <i>I specifically introduced an amendment for women 14 who were recently married or divorced. I believed it 15 was important. And it also was modeled after something 16 that was part of the Indiana law and that was 17 specifically spoken to in the Supreme Court's opinion. 18 The Lieutenant Governor indicated to me privately that 19 he believed that was a good exception, a good amendment 20 and that he would push that that be approved through 21 Congress, although I don't believe that occurred. It 22 wasn't added.</i></p> <p>23 <i>I also had a fairly broad amendment for 24 discrepancies where your name may not exactly match 25 what's on your voter ID card. My own driver's license,</i></p>



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<p>1    for example, and my voter ID card do not have an exact 2    match. My own driver's license says Wendy Russell Davis 3    on it. My voter ID card, when I received it a few weeks 4    ago, said Wendy Davis.</p> <p>5    And I had another broad amendment for a situation 6    where a person's address may not match exactly on their 7    voter ID card as it is on their driver's license. And a 8    situation where a person may have moved subsequent to 9    getting either of those two forms of voter documentation 10   and they won't be the same because one had been changed 11   while the other one had not yet been changed.</p> <p>12   It's a broader concern for me that there are a 13   number of people in the State of Texas who will show up 14   to vote, if this law goes into effect, who will not have 15   the opportunity to vote because our amendments that 16   would have allowed, in most of those situations at 17   least, for a provisional ballot to be provided to that 18   voter are not going to be provided.</p> <p>19   Q. Is it your understanding, then, that as enacted, 20   the law would not permit a person who appears to vote 21   without a qualifying photo ID to cast a provisional 22   ballot?</p> <p>23   A. Can you repeat your question?</p> <p>24   Q. Of course. In your understanding of SB 14 as 25   enacted, would a person who shows up to vote at the</p>	<p>13</p> <p>1    training.</p> <p>2    Q. The election worker that you just mentioned at 3    your polling place, to your knowledge, had that person 4    received any education or training on how SB 14 would 5    work?</p> <p>6    A. I don't know. I know we didn't commit any 7    resources to that kind of training at the State level.</p> <p>8    Q. To your knowledge, has any -- have any training 9    materials on SB 14 been delivered to anyone in the 10   State?</p> <p>11   A. I don't know.</p> <p>12   Q. Did you -- did you write any articles or op-eds 13   about SB 14?</p> <p>14   A. Not that I recall.</p> <p>15   Q. Did you give any speeches outside the legislature 16   about SB 14?</p> <p>17   A. Not that I recall.</p> <p>18   Q. Do you recall any public statements that you made 19   about SB 14?</p> <p>20   A. Probably as I spoke to people in wrap up about 21   what happened in this past legislative sessions. It was 22   one of the items that I mentioned, but I have never 23   given a presentation specific to that bill.</p> <p>24   Q. When you say "wrap up," what do you mean by that?</p> <p>25   A. I'm asked, as I'm sure all legislators are, to</p>
<p>1    polls without one of the forms of ID required, would 2    that person still be able to cast a provisional ballot?</p> <p>3    A. Well, this is a good question. And it was part 4    of a question in the debate about the bill. While the 5    bill may address that, I had a great concern about what 6    the training for our elections officials would be. And 7    we spent a significant amount of time talking about 8    whether there were any resources being committed by the 9    State to train our election administrators, thousands 10   and thousands of them across the State, on exactly how 11   the deal with issues like that. If you have a voter who 12   comes in and their ID does not exactly match, what 13   should be done in that situation.</p> <p>14   And I know from experience at my own polling 15   location a few months ago, when the elections 16   administrator who was working the poll the day that I 17   voted looked at my voter ID card and my license, she 18   said to me, "This won't be acceptable in November. 19   You're going to have to clear this discrepancy." So 20   that was her understanding. And that's a very important 21   concern, I think.</p> <p>22   But regardless of what the law specifically says, 23   there is going to be, I think, a tremendous lack of 24   understanding in those who are asked to administer it 25   because the State didn't commit any resources for that</p>	<p>14</p> <p>1    speak to different organizations in my district about 2    what happened in the most recent legislative sessions.</p> <p>3    Q. So this is kind of a summary of what's happened 4    in this session that you provide in your district?</p> <p>5    A. Yes. Yes.</p> <p>6    Q. Did you talk -- did you talk to any lobbyist 7    about SB 14, either before or during the 2011 session?</p> <p>8    A. Not that I recall.</p> <p>9    Q. Did you speak to any advocacy group about SB 14, 10   either before or during the 2011 session?</p> <p>11   A. Not independent of hearing testimony on the 12   Senate floor.</p> <p>13   Q. Did you for the -- well, for either -- I guess it 14   would have been in the committee. But did you have any 15   witnesses appear to give testimony on SB 14?</p> <p>16   A. I, specifically, did not request any witnesses to 17   appear, no.</p> <p>18   Q. Did any of your constituents appear to testify 19   about SB 14?</p> <p>20   A. I don't recall if anyone from SD 10 was there.</p> <p>21   Q. Do you recall if anyone from your district 22   testified about the previous voter ID bill from 2009?</p> <p>23   A. I don't recall.</p> <p>24   Q. Do you recall whether you spoke to any lobbyist 25   or advocacy group about the previous 2009 voter ID bill?</p>



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<p>1 A. I don't recall.</p> <p>2 Q. Have you spoken -- you mentioned the wrap ups.</p> <p>3 Have you spoken to any of your constituents about SB 14?</p> <p>4 A. I can recall having just general conversations</p> <p>5 with people who have asked questions and expressed</p> <p>6 concerns about it. But I can't point to anything in</p> <p>7 particular.</p> <p>8 Q. Do you recall having any conversations about</p> <p>9 SB 14 with constituents, either during the legislative</p> <p>10 session or -- or before?</p> <p>11 A. I don't recall. I'm sure that we received</p> <p>12 e-mails on this issue, both in favor and against it.</p> <p>13 Q. Do you recall, I know that it's a long time ago</p> <p>14 now, but do you recall roughly what the proportion was</p> <p>15 of support and opposition?</p> <p>16 A. I don't. I don't.</p> <p>17 Q. To the best of your knowledge, do any of your</p> <p>18 constituents support photo ID requirements for voting,</p> <p>19 generally?</p> <p>20 A. I believe that many of my constituents do.</p> <p>21 Q. And to the best of your knowledge, do any of your</p> <p>22 constituents oppose a photo ID requirement for voting?</p> <p>23 A. I believe that many of them oppose it as well.</p> <p>24 Q. And in your understanding, do any of your</p> <p>25 constituents support SB 14?</p>	<p>17</p> <p>1 Q. Did anyone outside of the legislature provide you</p> <p>2 with any kind of background materials on photo ID</p> <p>3 legislation?</p> <p>4 A. Not that I recall.</p> <p>5 Q. Do you know whether anybody outside the</p> <p>6 legislature provided your staff with materials on photo</p> <p>7 ID legislation?</p> <p>8 A. I don't know.</p> <p>9 Q. And I can hear myself kind of going back and</p> <p>10 forth. When I say "photo ID legislation" or "voter ID</p> <p>11 legislation," what I intend to refer to is legislation</p> <p>12 that would require a photo ID to vote.</p> <p>13 A. Yes, I understand your question that way.</p> <p>14 Q. Can you recall anyone providing you with -- with</p> <p>15 materials about SB 14 or voter ID legislation?</p> <p>16 A. I don't recall. We have a Democratic caucus, a</p> <p>17 Senate caucus and we have a caucus staff person who</p> <p>18 sometimes sends e-mails to us prior to working on</p> <p>19 particularly controversial issues. I don't recall him</p> <p>20 having sent anything to us for that, but he may have.</p> <p>21 Q. Do you recall whether the Senate Democratic</p> <p>22 caucus provided any -- well, I'll start with talking</p> <p>23 points, any talking points for members for committee or</p> <p>24 floor debate?</p> <p>25 A. Not that I recall. I know for my own preparation</p>
<p>1 A. I don't know that any of my constituents</p> <p>2 understand the particulars of SB 14.</p> <p>3 Q. Do you know whether any of your constituents</p> <p>4 oppose SB 14?</p> <p>5 A. Same answer. I'm not sure any of them understand</p> <p>6 the specifics.</p> <p>7 Q. Did you prepare any talking points related to</p> <p>8 SB 14?</p> <p>9 A. For my introduction of amendments on the Senate</p> <p>10 floor or to the public at large?</p> <p>11 Q. Let's start within the legislature. Did you</p> <p>12 prepare any talking points or -- for any consideration</p> <p>13 of SB 14 or an amendment?</p> <p>14 A. My staff may have helped to prepare talking</p> <p>15 points, which is typical when I'm introducing amendments</p> <p>16 to bills. I don't recall personally preparing any</p> <p>17 talking points. I'm sure I made little notes to myself</p> <p>18 ahead of time.</p> <p>19 Q. Did anyone outside of the legislature prepare</p> <p>20 talking points for you on SB 14?</p> <p>21 A. No.</p> <p>22 Q. Did anyone outside the legislature, at any time,</p> <p>23 provide you with talking points about voter -- photo</p> <p>24 voter ID legislation?</p> <p>25 A. No.</p>	<p>18</p> <p>1 I concentrated very specifically on the Indiana law that</p> <p>2 had been upheld and the reasons that the Supreme Court</p> <p>3 gave for upholding it. I'm an attorney myself, so I</p> <p>4 read that with my own lawyer hat on, I guess, for lack</p> <p>5 of a better way of saying it. So that I would</p> <p>6 understand the nuances of what they found to be</p> <p>7 supportable in the law, and also expressed concerns that</p> <p>8 they may have made. And having read that really formed,</p> <p>9 for me, the background of the amendments that I</p> <p>10 introduced and the arguments that I made in introducing</p> <p>11 them.</p> <p>12 Q. And that's the Crawford versus Marion County</p> <p>13 case?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. Did the Senate Democratic caucus provide</p> <p>16 any -- any material that you can recall specific to</p> <p>17 SB 14?</p> <p>18 A. I do not recall. It's possible, but I don't</p> <p>19 recall anything specific.</p> <p>20 Q. Do you recall whether the Senate Democratic</p> <p>21 caucus provided its members with any material specific</p> <p>22 to SB 362, the 2009 voter ID bill?</p> <p>23 A. I can't recall. I do believe that we were</p> <p>24 provided with a copy -- I don't remember if this came</p> <p>25 from my staff or if it came from our caucus staffer, but</p>



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<p>1 I recall reading the Baker-Carter report on photo voter 2 ID and their recommendations. And reading that, both 3 prior to the 81st legislative session debate on the bill 4 and the 82nd legislative debate on the bill, and I 5 specifically asked the bill's author questions from that 6 report as to why some of the recommendations were 7 advanced in the bill while others were not.</p> <p>8 Q. Did you, your staff, conduct any studies about 9 the potential impact of SB 14?</p> <p>10 A. No. Not personally, no.</p> <p>11 Q. Did you or your staff review any studies about 12 the potential impact of SB 14?</p> <p>13 A. Information was introduced in each of the two 14 sessions where the bill was debated as part of our 15 hearing. I don't recall whether anything independent of 16 that was provided to me.</p> <p>17 Q. And when you say that "information was provided," 18 is that information that was either discussed or 19 introduced into the official record?</p> <p>20 A. Yes, both oral testimony and I believe some 21 written testimony as well.</p> <p>22 Q. How does that typically work in the Senate? Is 23 there kind of an organized distribution of materials to 24 senators before a debate?</p> <p>25 A. No. There's -- especially in the context of this</p>	<p>21</p> <p>1 The Senate rules are adopted usually the first day that 2 we actually convene to do business as a body. And by 3 advancing this bill prior to the adoption of those 4 rules, it was allowed to come forward without a 5 two-thirds requirement.</p> <p>6 I know that's what happened in the 81st session. 7 I think that's what happened in the 82nd session, though. 8 It may be -- I may be remembering that incorrectly. It 9 may have occurred through a different kind of procedural 10 mechanism. But it certainly was something outside of 11 our regular rules.</p> <p>12 Q. And when you say it "was advanced prior to 13 adoption of the Senate rules," do you mean it was 14 introduced or filed prior to the adoption of the rules?</p> <p>15 A. This bill -- in the 82nd session the governor 16 advanced it as a piece of emergency legislation, and 17 because of that, it came outside the regular process and 18 procedures. And it was advanced at the very, very 19 outset of the session so that it could move to the floor 20 prior to the adoption of the rules. I believe that's 21 correct.</p> <p>22 Q. How does -- how does the governor's designation 23 of a bill as emergency legislation, how does that affect 24 the procedures that apply to that bill in the Senate?</p> <p>25 A. It moved it up in the priority order of bills to</p>
<p>1 situation, in both the 81st and the 82nd legislative 2 session, this bill was advanced using a procedural 3 maneuver that assured that it would be debated outside 4 the typical Senate rules. Typically a bill is sent to a 5 specific committee and debated prior to being sent to 6 the floor for a vote. And also, typically a bill 7 requires two-thirds of the members to advance the bill 8 to the floor for debate. In both of the two sessions 9 where this bill was debated, those rules were set aside 10 for procedural maneuver that allowed that. And so in 11 each of them, the committee hearing that took place on 12 the bill was simultaneous, really, with the Senate floor 13 debate.</p> <p>14 We functioned as Committee of the Whole. And we 15 took testimony actually on the Senate floor which is 16 very unusual. So it was all simultaneously done as part 17 of our debate on the bill. And it was also the case 18 that the bill was advanced without the requirement of 19 the two-thirds vote in the Senate.</p> <p>20 Q. And the two-thirds requirement, was that -- was 21 there a -- there was a specific rule, a Senate rule 22 adopted that created a particular rule for voter ID 23 bills; is that right?</p> <p>24 A. My recollection was that the bill was advanced in 25 both sessions prior to the adoption of the Senate rules.</p>	<p>22</p> <p>1 be considered. In the Senate, what typically happens is 2 a blocker bill is filed at the outset of the legislative 3 session. It's a bill that the Republican and Democratic 4 senators agree will not ever be advanced. So what the 5 two-thirds rule allows is for a bill to move outside the 6 regular order of business and go in front of that 7 blocker bill that's not been advanced. Where a piece of 8 emergency legislation is filed, it can advance outside 9 of that path.</p> <p>10 Q. Okay. Is it, in your understanding, is it 11 sufficient for -- is the governor's emergency 12 designation, is that sufficient to take a bill, for lack 13 of a better word, outside of the two-thirds blocker bill 14 procedure?</p> <p>15 A. No. No. In this instance, if I'm remembering 16 this right, I believe that his emergency designation on 17 the voter ID bill occurred and the bill moved forward 18 prior to our adoption of the rules and the filing of the 19 blocker bill. So there was no blocker bill in front of 20 it or the rules that required two-thirds support to move 21 a bill outside the order had not yet been adopted. But 22 it was the only of the governor's pieces of emergency 23 legislation that advanced in that way. The others came 24 in through the two-thirds rule.</p> <p>25 Q. Okay. What is the -- well, let's back up a bit.</p>



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<p>1 When we talk about the two-thirds rule, am I correct in 2 understanding that -- so you said there's a blocker bill 3 that's kind of put at the front of the line. Is that 4 accurate?</p> <p>5 A. Yes.</p> <p>6 Q. And the two-thirds vote is necessary to -- does 7 it suspend the regular order of business?</p> <p>8 A. Yes, that's exactly what it does.</p> <p>9 Q. And so by suspending the regular order of 10 business, that two-thirds vote allows for a bill to be 11 considered out of order. Is that -- is that a fair --</p> <p>12 A. Yes. Yes.</p> <p>13 Q. So in some sense, the -- what's thought of as the 14 normal Senate procedure is to suspend the regular order 15 of business?</p> <p>16 A. Yes.</p> <p>17 Q. Are there other -- are there any other ways in 18 the Senate that a bill can not have to go through the 19 two-thirds vote?</p> <p>20 A. There was another procedural maneuver used this 21 session that I'm not sure had been used before. And my 22 memory is fairly vague on it. But it was on what we 23 call House bill day. It's when a group of House bills 24 come over and we didn't have a blocker bill in the order 25 of business on the House bills. So a bill came through</p>	<p>25</p> <p>1 day, unless you've got a blocker House bill there, as 2 long as it's the next one coming up in line, you can go 3 ahead and consider it.</p> <p>4 Q. And so are you aware in the 81st Legislature or 5 any previous legislature, are you aware of a blocker 6 bill being filed in the Senate on House bill day?</p> <p>7 A. I'm not aware that that question had ever arisen 8 or that anyone considered that there needed to be a 9 separate House blocker.</p> <p>10 Q. So to the best of your knowledge, there had not 11 been a specific blocker bill filed in the Senate on 12 House bill day?</p> <p>13 A. It would be a House bill blocker. And to my 14 knowledge, that had never been considered or debated. 15 It was always assumed that the Senate blocker bill 16 served as a blocker for all legislation whether it 17 originated in the House or the Senate.</p> <p>18 Q. Is the blocker bill, is that something that is 19 typically provided in the Senate rules themselves?</p> <p>20 A. Yes. Just under the regular order of business, 21 that's how it's discussed. It's not called a blocker 22 bill. But there's a rule about the fact that bills must 23 be taken up in order that they come, essentially. And 24 that in order to bring a bill up to the floor outside of 25 the order, there needed to be a two-thirds vote of the</p>
<p>1 without having to come outside the regular order of 2 business. And therefore, the parliamentarian rules that 3 that House Bill could be considered even though it 4 didn't have a two-thirds vote to bring it to the floor. 5 And it was another controversial bill. I believe 6 it was the sanctuary city bill. It may have been the 7 sonogram bill, but it was one of those.</p> <p>8 Q. So on a House -- on House bill day, is it 9 customary to have a blocker bill or not?</p> <p>10 A. Yes. Well, let me -- let me say that 11 differently. I'm not sure that anyone had ever really 12 addressed that question before. And it took a great 13 deal of debate in front of the parliamentarian before 14 she ruled on what should happen.</p> <p>15 I think it had always been assumed that the 16 Senate blocker bill served as a blocker bill regardless 17 of whether a bill was coming over on House bill day or 18 whether it was coming in the regular order of business 19 through the Senate. And this was the first time that 20 the question had been pressed. And honestly, it caught 21 the Democratic minority party off-guard. And we 22 believed that it shouldn't advance, but the 23 parliamentarian ruled that it should. So when I 24 answered your question "yes," I think that going 25 forward, that's what she would rule. That on House bill</p>	<p>26</p> <p>1 membership to allow that to happen.</p> <p>2 Q. I see. So there's no -- if I understand 3 correctly, there's not a rule that says a blocker bill 4 or a --</p> <p>5 A. Correct.</p> <p>6 Q. Any bill shall be filed and not acted upon?</p> <p>7 A. Correct.</p> <p>8 Q. But the regular order of business says you take 9 bills in order, right?</p> <p>10 A. Yes.</p> <p>11 Q. And it's customary to file a bill that's known as 12 a blocker bill that sits at the front of the line?</p> <p>13 A. It has always been the tradition of the Senate to 14 do that, yes. I'm not aware of any session that's ever 15 been conducted without that practice.</p> <p>16 Q. Are you -- are you aware of any -- any other 17 bills that have been considered, I guess the word would 18 be in the regular order of business? And by that I mean 19 without the two-thirds procedure?</p> <p>20 A. As I said, I believe either the sanctuary city 21 bill -- I believe it was the sanctuary city bill, I 22 think essentially there was a two-thirds vote sufficient 23 to bring the sonogram bill forward to the floor. There 24 was another controversial bill this session that came 25 out of the order of business. Again, it was the House</p>



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<p>1 bill day one, but I don't recall what it was.</p> <p>2 Q. In the regular order of business in the Senate,</p> <p>3 how many votes are necessary to pass a bill?</p> <p>4 A. There are 31 members of the Senate. It requires</p> <p>5 21 of us to vote to bring a bill to the floor for</p> <p>6 debate. And after it's brought to the floor on second</p> <p>7 reading, it only requires a simple majority in order to</p> <p>8 pass a two-third reading and then to pass it on to the</p> <p>9 House.</p> <p>10 Q. And you say there are 21 votes required to bring</p> <p>11 it to the floor. Is that -- is that the regular order</p> <p>12 of business or is that the -- or is that to suspend the</p> <p>13 regular vote?</p> <p>14 A. That's to suspend, because every time we bring a</p> <p>15 bill we're suspending the regular order because of that</p> <p>16 blocker bill.</p> <p>17 Q. Okay. But if there were not a blocker bill in</p> <p>18 place for whatever reason?</p> <p>19 A. Then the next bill that was in line would be the</p> <p>20 one that could come up outside of a two-thirds vote.</p> <p>21 But as long as it wasn't the one in the front, every</p> <p>22 other bill behind it would have to come up under a</p> <p>23 two-thirds vote. It would just depend on what the</p> <p>24 natural order of the bills was as they were advanced</p> <p>25 through committee and sent to the Senate floor.</p>	<p>29</p> <p>1 delayed time period between adoption of such a rule and</p> <p>2 implementation with a very well funded education system</p> <p>3 that would be part of moving to a photo ID -- a photo ID</p> <p>4 requirement.</p> <p>5 Q. Okay. I'm sure I could read it in the report.</p> <p>6 But do you recall what the -- what the recommended</p> <p>7 advance period was in the Carter-Baker report?</p> <p>8 A. I'm sorry. I don't. I know that amendments were</p> <p>9 introduced in both sessions on those counter balances,</p> <p>10 recommendations that were in the Carter-Baker report to</p> <p>11 enhance and improve the opportunity for people to vote</p> <p>12 in spite of a photo ID requirement, but none of those</p> <p>13 was accepted as part of the bill.</p> <p>14 Q. Now, in the ordinary course of business in the</p> <p>15 Senate, a bill is referred to you -- you said a specific</p> <p>16 committee?</p> <p>17 A. Correct.</p> <p>18 Q. And -- but SB 14 was referred to the Committee of</p> <p>19 the Whole, right?</p> <p>20 A. Correct.</p> <p>21 Q. Is there a particular committee that SB 14 would</p> <p>22 have been referred to had it not been referred to the</p> <p>23 Committee of the Whole?</p> <p>24 A. I believe the committee -- I don't sit on it so I</p> <p>25 may get the name of it wrong. I believe it's called</p>
<p>1 Q. So if there were no blocker bill for whatever</p> <p>2 reason, then to bring a bill to the floor, how many</p> <p>3 votes would that require?</p> <p>4 A. If there were no blocker bill and it was the</p> <p>5 first one in line, it would only require a simple</p> <p>6 majority.</p> <p>7 Q. Do you recall seeing any studies about -- about</p> <p>8 the impact of a photo ID law on voter turnout?</p> <p>9 A. I recall there being testimony about that. And</p> <p>10 there was likely written testimony introduced, but I</p> <p>11 don't recall specifically what it said.</p> <p>12 Q. Do you recall generally whether there was</p> <p>13 testimony or evidence of studies showing that photo ID</p> <p>14 laws would increase turnout?</p> <p>15 A. No.</p> <p>16 Q. Do you recall seeing or hearing about any studies</p> <p>17 that showed a decrease in turnout caused by photo ID</p> <p>18 laws?</p> <p>19 A. I generally recall from the Carter-Baker report</p> <p>20 that the express concern that that would be the</p> <p>21 consequence of a voter ID law without adequate</p> <p>22 compensating procedures to prevent that. Very</p> <p>23 specifically they talked about same day voter</p> <p>24 registration, they talked about mobile voter</p> <p>25 registration drives, and they talked about a fairly</p>	<p>30</p> <p>1 Intergovernmental Relations. I believe that's right.</p> <p>2 And that's probably where it would have gone. It could</p> <p>3 have also gone through State Affairs. I think either of</p> <p>4 those would have been a logical place.</p> <p>5 Q. How many people typically are on a Senate</p> <p>6 committee?</p> <p>7 A. Depends on the committee. Some are as large as</p> <p>8 15. Others have, I think usually nine members. And</p> <p>9 some only have five. It's always an odd number.</p> <p>10 Q. Uh-huh. Do you know, as you sit here, how many</p> <p>11 members the State Affairs Committee has?</p> <p>12 A. I believe State Affairs has nine members on it.</p> <p>13 Q. Okay. Is the introduction of testimony and</p> <p>14 evidence, is that limited in the Senate to the</p> <p>15 committee?</p> <p>16 A. Yes. As part of a Senate debate, we can</p> <p>17 introduce information that we seek to be added as an</p> <p>18 amendment to a bill. And occasionally, but rarely, a</p> <p>19 piece of information may be introduced to the secretary</p> <p>20 of the Senate and a request made of her to pass it out</p> <p>21 to the members for them to review prior to voting on a</p> <p>22 bill. It's fairly rare that that happens, but sometimes</p> <p>23 it does.</p> <p>24 Q. If that -- when that does happen, does the</p> <p>25 material that gets submitted to the secretary, does that</p>



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<p>1 become part of the record?</p> <p>2 A. If it's requested that that be done, it isn't</p> <p>3 always the case. But a member can move that a piece of</p> <p>4 information that they've handed out to the other members</p> <p>5 be included in the formal record and then the members</p> <p>6 vote on whether they agree that that should occur.</p> <p>7 Q. In just a typical committee, who is allowed to</p> <p>8 introduce evidence or provide witnesses on a committee?</p> <p>9 A. Any person who wishes to submit testimony to a</p> <p>10 committee may do so. The chair makes a decision on</p> <p>11 whether that information can be submitted verbally or</p> <p>12 whether in writing. Sometimes a chair chooses only to</p> <p>13 allow invited testimony. And that invitation occurs at</p> <p>14 the behest of the chair working with their staff. And</p> <p>15 then that testimony is the verbal testimony and all</p> <p>16 other testimony that's introduced is done so in writing,</p> <p>17 typically. But cards are provided as part of committee</p> <p>18 hearings for people to fill out, simply to express</p> <p>19 whether they were in favor or against a bill. And they</p> <p>20 can put their name and their address and their</p> <p>21 identifying information to create part of the formal</p> <p>22 record.</p> <p>23 Q. Are members who don't sit on a committee allowed</p> <p>24 to introduce evidence into the record?</p> <p>25 A. No.</p>	<p>33</p> <p>1 fact, in order for a bill to be formally introduced to a</p> <p>2 committee, a quorum must be present in order to move its</p> <p>3 adoption before the committee.</p> <p>4 Q. How often do Senators who are not members of the</p> <p>5 committee attend committee meetings?</p> <p>6 A. Fairly often because we introduce our own bills</p> <p>7 to committees that we do not sit on. While we do not</p> <p>8 come and testify on behalf of other Senators bills or</p> <p>9 provide evidence on bills that are not our own, we do</p> <p>10 introduce our own bills before committee members if our</p> <p>11 bill is being assigned to that committee. So it's</p> <p>12 fairly frequent that we appear at each other's committee</p> <p>13 hearings. We're usually given courtesy of sitting up at</p> <p>14 the dios and we introduce our bill to the committee from</p> <p>15 that position.</p> <p>16 Q. Is it typical for members not on the committee to</p> <p>17 stay and listen to testimony on bills that they have not</p> <p>18 introduced to the committee?</p> <p>19 A. Sometimes. Any member is certainly provided the</p> <p>20 courtesy of doing that. And oftentimes if a bill is</p> <p>21 particularly controversial or noteworthy, members</p> <p>22 outside the committee will come and listen and actually</p> <p>23 participate in asking questions of the witnesses at the</p> <p>24 discretion of the chair.</p> <p>25 Q. Okay. When the Senate sits as a Committee of the</p>
<p>1 Q. When the Senate sits on the Committee of the</p> <p>2 Whole, are all members allowed to introduce evidence</p> <p>3 into the record?</p> <p>4 A. Yes. And to -- just to supplement my answer to</p> <p>5 your question a moment ago. It's our tradition and our</p> <p>6 courtesy to each other as a body, if we wish to</p> <p>7 introduce testimony in a committee or evidence or</p> <p>8 information in a committee, as a courtesy, a Senator not</p> <p>9 sitting on the committee can request that that be done</p> <p>10 through a member and the member -- I can't imagine a</p> <p>11 situation where they don't agree to do that.</p> <p>12 Q. So occasionally it is possible for someone who's</p> <p>13 not on the committee to, with the assistance of a</p> <p>14 committee member, introduce evidence into the record?</p> <p>15 A. Yes. Yes.</p> <p>16 Q. In an ordinary -- would it be accurate to refer</p> <p>17 to what I'm calling an ordinary committee as a standing</p> <p>18 committee?</p> <p>19 A. Uh-huh. Yes.</p> <p>20 Q. In a standing committee, is it typical -- how</p> <p>21 many Senators typically attend the proceedings of an</p> <p>22 ordinary COMMITTEE?</p> <p>23 A. Sometimes all of the members on a committee are</p> <p>24 present. Sometimes not. In order for a vote to be</p> <p>25 taken, a quorum of the committee must be present. In</p>	<p>34</p> <p>1 Whole, does the chair have any discretion as to whether</p> <p>2 a member of the Senate may question a witness?</p> <p>3 A. The chair in that situation is the Lieutenant</p> <p>4 Governor. I suppose he has that discretion. I don't</p> <p>5 recall any limitation of questions being a part of our</p> <p>6 debate on SB 14. Although there may have been time</p> <p>7 constraints in terms of how long witnesses could</p> <p>8 testify. In fact, I'm fairly sure that there were.</p> <p>9 Q. Is it accurate to say that in the Committee of</p> <p>10 the Whole any Senator has the right to introduce</p> <p>11 evidence into the record?</p> <p>12 A. Yes.</p> <p>13 Q. Is it accurate to say that in the Committee of</p> <p>14 the Whole any Senator has the right to question a</p> <p>15 witness?</p> <p>16 A. Yes.</p> <p>17 Q. And I think you just said that in this -- in a</p> <p>18 Committee of the Whole, the chair would be the</p> <p>19 Lieutenant Governor?</p> <p>20 A. Correct.</p> <p>21 Q. Do you believe that SB 14 will have the effect of</p> <p>22 denying or abridging African-American Texans right to</p> <p>23 vote?</p> <p>24 A. Yes, I do.</p> <p>25 Q. What's the basis for that belief?</p>



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<p>1 A. I believe that the bill will particularly have an 2 impact on abridging the right to vote of persons who are 3 of low income status, indigent status primarily. There 4 was information, as I said earlier, that was introduced 5 into the record that that particular class of people in 6 the State of Texas disproportionately is made up of 7 persons who are African-American and Latino. And that 8 therefore, if one could conclude that persons who are of 9 indigent status will no longer be able to meet the 10 requirements to vote in the State of Texas or to occur, 11 one could also conclude that that would have a 12 disproportionate impact on the African-American and 13 Latino community.</p> <p>14 Q. Is there any other reason that you believe SB 14 15 will have a negative impact on the African-American 16 community in Texas?</p> <p>17 A. I believe that that concern that I expressed 18 captures.</p> <p>19 Q. Do you believe that SB 14 will have the effect of 20 denying or abridging the right to vote of 21 African-American Texans who are not indigent?</p> <p>22 A. I believe it will disproportionately impact those 23 who don't ordinarily seek out a driver's license in the 24 State of Texas. That person may not fall in an indigent 25 category, but my concern is that, particularly where no</p>	<p>37</p> <p>1 Q. When you say -- when you say that "people who 2 would be impacted," do you mean people who might not 3 have the required ID?</p> <p>4 A. Yes. We, you know, as part of our debate in both 5 sessions, members who are opposed to the bill raised the 6 concern that there would be a disproportionately 7 negative impact on persons in the African-American and 8 Latino community of current legal voting citizens. And 9 we asked specifically that information be provided to us 10 that assured us that that negative impact would not 11 occur. And it was fairly apparent to me certainly, and 12 I believe to others, that there was flagrant disregard 13 for whether it had that kind of impact. And many of us 14 believed that that impact was the absolute intent of 15 that piece of legislation.</p> <p>16 Q. We may have already gone over this a little bit. 17 But you say many of us believed that -- I don't mean to 18 misquote you, but many of us believed that there was a 19 negative impact on African-Americans, Latinos. What 20 was -- I've asked you about the basis for your belief 21 about an impact. Do you have a sense of what the 22 general basis of that belief was, that there would be a 23 negative impact on African-Americans and Latinos?</p> <p>24 A. Well, certainly information that was provided as 25 part of both the 81st and the 82nd legislation in our</p>
<p>1 funding was provided to create an -- a very broad based 2 education in the State about the photo ID requirement, 3 that many people will be caught off-guard by it. That 4 those who use the bus for transportation, those who have 5 not had a driver's license for other purposes, will come 6 to vote and will not have the opportunity to do so. Not 7 because, necessarily, at the end of the day all of them 8 fit into a category of a person who can't afford, 9 ultimately, to get an ID, but because no education 10 component was put in place to make sure that people are 11 aware.</p> <p>12 Q. Was there any evidence considered or presented in 13 the 81st or the 82nd Legislature that showed or that 14 attempted to show who -- how many non-indigent people 15 would maybe lack an ID?</p> <p>16 A. I believe the question was asked of the Secretary 17 of State, or a representative of the Secretary of 18 State's office, how many people were presumed to be 19 impacted by such as law. I also recall that there 20 really was no specific information provided to us about 21 what that impact would look like. And it was one of our 22 gravest concerns that we were moving forward on a bill 23 where no real analysis had been conducted with regard to 24 the disenfranchisement of persons who are currently 25 legally voting.</p>	<p>38</p> <p>1 discussions. Testimony that was provided, as well as 2 information in the Baker-Carter report which 3 specifically refers to the possible impact on members of 4 those communities, those populations. But the other 5 that was noted in both session's debate on the bill was 6 that there had not been any information put in front of 7 us as a Senate body, as a Legislature, that demonstrated 8 the existence of fraud sufficient to move forward with a 9 bill, a law, that would have the likely consequence of 10 disenfranchising voters who currently have the legal 11 right to vote. And we specifically asked why this piece 12 of legislation were advancing absent that information, 13 where information that exists with regard to fraud and 14 absentee balloting was not being addressed.</p> <p>15 Comparatively, the information before the State 16 in terms of where fraud occurs in the voting process 17 demonstrates that there's much more likelihood of fraud 18 occurring in the absentee voter arena than in the photo 19 ID fraud arena or voter fraud arena. It's my belief, 20 it's other's belief, that the attempt to address the 21 absentee voter fraud would have an impact that was much 22 broader than simply on the African-American and Latino 23 community. And that that's why that piece of voter 24 fraud is not being addressed in the State of Texas.</p> <p>25 A great deal of Anglo, particularly senior vote,</p>



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<p>41        1 occurred in the absentee vote arena. And that the 2 likelihood that those persons might be impacted by any 3 kind of a law that would address that fraud was what 4 keeps it from being an issue of concern that's advanced 5 by the majority party in the State of Texas, while a 6 piece of legislation to address an undemonstrated fraud 7 is advancing simply because of the people that it will 8 most assuredly impact.</p> <p>9        Q. Is it your belief that there is no in person 10 voter fraud in Texas?</p> <p>11      A. I cannot say that with certainty. What I can say 12 is that we, as a State, spent an enormous amount of 13 money trying to ferret out such fraud in both of the 14 legislative sessions debate on this bill. Specific 15 questions were addressed to the attorney general's 16 office with regard to the consequences of those 17 investigations and the multiple millions of dollars that 18 were spent in trying to ferret it out. And my 19 recollection from that testimony was that very, very 20 little fraud had been revealed.</p> <p>21      Q. Is that testimony and the effort that you're 22 describing, is that the effort by the Texas Attorney 23 General's office?</p> <p>24      A. Yes.</p> <p>25      Q. Is it -- is it your understanding that the</p>	<p>43        1 fraud in that manner.</p> <p>2        Q. But there -- are you familiar with testimony or 3 argument of proponents of the bill that in person voter 4 fraud is more difficult to detect?</p> <p>5        A. I'm not aware.</p> <p>6        Q. Do you have any understanding or a personal 7 knowledge whether or not in person voter fraud is more 8 difficult to detect than, say, mail in ballot fraud?</p> <p>9        A. I'm not aware.</p> <p>10      Q. Would you have any reason to disagree if somebody 11 said that in person voter fraud is more difficult to 12 detect than mail in ballot fraud?</p> <p>13      A. No. I would find it surprising for that to be a 14 reason to support a bill like Senate Bill 14. If it 15 were easier to detect voter fraud in the absentee ballot 16 arena I would think that would be sufficient reason for 17 that to be addressed through a piece of legislation like 18 SB 14. And yet it has not been.</p> <p>19      Q. Did you introduce any bills either in 2009 or '11 20 to address mail in ballot fraud?</p> <p>21      A. I personally did not. Though, I believe in one 22 of those two sessions, perhaps both, I believe that one 23 of our Senate Democratic members introduced such a bill, 24 or perhaps introduced as an amendment to the voter ID 25 bill such a proposal.</p>
<p>42        1 attorney -- the Texas Attorney General has the exclusive 2 ability or jurisdiction to prosecute voter fraud?</p> <p>3        A. I don't know. I do know that as part of each of 4 these legislative sessions, we advanced an enhanced 5 penalty piece of legislation for persons who were caught 6 committing fraud at the ballot box. And it was our 7 belief that, to the extent fraud exists, that would be 8 an appropriate way to address that fraud where it was 9 discovered. Particularly because on ballots with the 10 very, very minimal justification for a photo voter ID 11 law, many, many, many people in the State of Texas who 12 currently have the legal right to vote will have this 13 right threatened. And that a much greater threat to the 14 disenfranchisement to the legal voters is the 15 consequence of moving forward with that as the solution, 16 with a photo ID bill as the solution.</p> <p>17      Q. So, then it was your belief that increasing the 18 penalty for in person voter fraud was a sufficient 19 remedy or deterrent?</p> <p>20      A. Yes. Particularly because so little had ever 21 been discovered.</p> <p>22      Q. And in your understanding, was that the belief of 23 the Democratic members of the Senate as well?</p> <p>24      A. Yes. And I believe we collectively voted in 25 favor of an amendment that would have addressed voter</p>	<p>44        1 Q. You mentioned you're a lawyer. Do you have -- do 2 you have any experience with prosecution?</p> <p>3        A. No, I do not.</p> <p>4        Q. Are you -- do you have any understanding whether 5 it is more difficult to prosecute a case of in person 6 voter fraud than, say, mail in ballot fraud?</p> <p>7        A. I don't have any understanding of that.</p> <p>8        Q. Do you have any understanding whether there are 9 specific political -- well, start over. Do you have any 10 understanding that there are potential political 11 consequences to prosecuting voter fraud?</p> <p>12      A. No.</p> <p>13      Q. Do you have any understanding whether a 14 prosecutor who prosecutes voter fraud may be accused of 15 targeting Democratic voters?</p> <p>16      A. No.</p> <p>17      Q. Would you have any reason to disagree with the 18 contention that prosecuting voter fraud creates 19 potential for accusations of political bias?</p> <p>20      A. If other types of voter fraud that are committed 21 by persons outside minority populations is not 22 addressed, I believe it's possible that that assumption 23 might be made.</p> <p>24      Q. When you say "voter fraud that's committed by 25 persons outside minority populations," are you referring</p>



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<p>45</p> <p>1 to a specific kind of voter fraud?</p> <p>2 A. The absentee voter fraud that we talked about a 3 moment ago.</p> <p>4 Q. So you contend that -- is it your contention that 5 mail in ballot fraud or absentee voter fraud, is it more 6 likely to be committed by persons who aren't members of 7 minorities?</p> <p>8 A. I believe there's evidence that in person mail in 9 voter fraud is occurring at a much more frequent level 10 than in person voter fraud. And that that fraud is 11 occurring across all populations and addressing it would 12 not have a disproportionate impact on persons who are 13 African-American or Latino. And therefore, it's not 14 nearly the priority to address by the current 15 administration in the State of Texas.</p> <p>16 Q. Is it your understanding that in person voter 17 fraud is disproportionately engaged in by members of 18 minority group?</p> <p>19 A. It's not. But I believe that the bill that was 20 advanced to, and I'm putting quotations around this 21 word, "purportedly" addressed in person voter fraud is 22 known to have a disproportionate impact in 23 disenfranchising legal voters who are African-Americans 24 and Latinos in the State of Texas. I don't think in 25 either instance the question that is really at the heart</p>	<p>47</p> <p>1 advancing that piece of legislation. The bipartisan 2 Baker-Carter report calls for exactly those things. And 3 where a particular political party issues parts of that 4 and yet embraces other parts of it, yes, I believe that 5 that is evidence of what the intention of that piece of 6 legislation truly is.</p> <p>7 Q. So it's your position that there were amendments 8 that would have reduced the discriminatory impact of the 9 bills?</p> <p>10 A. Yes.</p> <p>11 Q. And so you assume -- I mean, that assumes that 12 there would be the discriminatory impact in the first 13 place, right?</p> <p>14 A. Evidence was put forward that the discriminatory 15 impact would occur, that was put before all members of 16 the Senate body. And no member discussed or gave any 17 defensible reason for voting against amendments that 18 were offered to assure that that disenfranchisement 19 didn't occur. Instead, without debate on behalf of the 20 Republican members of the Senate, those pieces -- those 21 amendments were, for the most part, tabled without any 22 kind of discussion, without even giving any legitimacy 23 as to whether valid points were being made in the 24 advancement of those amendments. In other words, it was 25 a complete lack of concern about the disparate impact</p>
<p>46</p> <p>1 of addressing the fraud for the current administration 2 is to address the fraud. I believe that it's to impact 3 the community that will be impacted by it.</p> <p>4 Q. What is your basis for that statement?</p> <p>5 A. The discussions and debates that we had as part 6 of this bill in both the 81st and the 82nd legislative 7 sessions. The attempts to introduce amendments so that 8 that disproportionate impact in the African-American and 9 Latino community would not occur and the unanimous votes 10 against such amendments by persons in the Republican 11 party.</p> <p>12 Q. So it's your contention that because certain 13 members voted against amendments that were designed to 14 reduce the impact of voter ID laws on minority voters, 15 that's evidence that they intended to impact minority 16 voters?</p> <p>17 A. We had numerous conversations in the Senate about 18 how to improve this bill in a way that would allow voter 19 fraud at the ballot box to be addressed and yet to 20 alleviate concerns that disenfranchisement would occur. I find it alarming that if the true intent of this legislation is to assure integrity at the ballot box, that efforts to likewise assure that disenfranchisement is not the consequence of the bill should have been respected and should have been welcomed as part of</p>	<p>48</p> <p>1 that might occur and a predisposed decision to say no to 2 any amendment that might try to improve upon the bill.</p> <p>3 Q. Why is that a lack of concern?</p> <p>4 A. In my opinion, if an amendment that has 5 demonstrated validity is introduced by a member and 6 tabled without any kind of discussion on the merits of 7 the amendment occurs, it shows a lack of concern for the 8 arguments that are being made.</p> <p>9 Q. Would it also show a lack of concern if an 10 amendment were debated, considered and then rejected?</p> <p>11 A. Not to the same degree, not if the debate were a 12 genuine and sincere one.</p> <p>13 Q. Isn't it true though, that if someone didn't 14 believe there would be any disparate impact, then voting 15 against an amendment would not necessarily show any lack 16 of concern?</p> <p>17 A. I believe that anyone who says to you they 18 believe there would not be a disparate impact is either 19 willfully being ignorant of that fact or choosing to 20 ignore it.</p> <p>21 Q. You mentioned a moment ago that there was 22 evidence presented to everybody about a disparate 23 impact. Can you tell me specifically what that evidence 24 was?</p> <p>25 A. It was, as I generally discussed earlier, I don't</p>



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<p>1 recall the specific testimony that was introduced either 2 verbally or in writing, but information that 3 demonstrated that persons in the State of Texas, and 4 certainly I think following legislative session, 5 questions that the DOJ has asked of the Secretary of 6 State has revealed this as well, that persons who are 7 most likely to be disenfranchised by a law such as this 8 fall primarily in our lowest income communities, which 9 unfortunately in the State of Texas are 10 disproportionately represented by African Americans and 11 Latinos.</p> <p>12 Q. Do you recall any specific person who provided 13 testimony to that effect?</p> <p>14 A. I don't recall.</p> <p>15 Q. Do you recall any specific conclusion from any of 16 the testimony or studies about the disparate impact of 17 SB 14?</p> <p>18 A. I don't recall. But I certainly recall us asking 19 the Secretary of State whether those impacts would occur 20 and that the members were willing to advance a piece of 21 legislation without a real clear picture from the 22 Secretary of State on whether that was going to be the 23 case. And, in fact, with the Secretary of State being 24 fairly candid that she had not done an analysis that 25 would really enable her to make that kind of a</p>	<p>49</p> <p>1 Q. If an amendment provided for or allowed for 2 non-photo ID, would you contend that that would not 3 weaken the ability to ferret out in person voter fraud? 4 A. Can you ask that question again? 5 Q. Of course. You mentioned a moment ago amendments 6 that would not have weakened the ability to ferret out 7 in person voter fraud? 8 A. Yes. 9 Q. Is it your contention that allowing non-photo 10 forms of ID would maintain the same ability to ferret 11 out in person voter fraud? 12 A. I believe that together with some of the other 13 provisions of the law that could have occurred. There 14 were very few exceptions that were created as part of 15 the amendments that were introduced. And I went through 16 those earlier, where there might be some minor 17 discrepancy between a person's photo ID and their voter 18 registration card, where there might be a change of 19 someone's name because of marriage or divorce, and where 20 there might be a situation where a person was indigent, 21 but could provide other forms of voter identification 22 that would be sufficient to identify them as the person 23 who was voting. 24 Q. Do you believe that persons who would potentially 25 have a discrepancy between their photo ID and their</p>
<p>1 determination.</p> <p>2 Q. Do you know if it's possible to do that kind of 3 analysis?</p> <p>4 A. Well, certainly I think the DOJ has asked some 5 very good questions about that in terms of who in the 6 State of Texas today falls into the category of persons 7 who currently have voter IDs in the State of Texas and 8 yet who do not possess Department of Public Safety photo 9 IDs.</p> <p>10 Q. Do you know if the data necessary to make that 11 determination is available -- is it available, period, 12 in Texas?</p> <p>13 A. I don't know.</p> <p>14 Q. If that information weren't available -- let me 15 ask another question first. So it's your testimony that 16 the fact that there was no -- there was no determination 17 of who would be impacted potentially by SB 14, the fact 18 that there was no determination made shows indifference 19 toward the impact. Is that true?</p> <p>20 A. Yes, together with the fact that information had 21 been provided that that was likely to be the case and 22 that amendments were introduced that could have 23 corrected that. Amendments that would not have weakened 24 the ability for the law to ferret out voter fraud at the 25 ballot box and yet those amendments were rejected.</p>	<p>50</p> <p>1 voter registration are disproportionately members of 2 minority groups?</p> <p>3 A. I don't know.</p> <p>4 Q. Do you contend that people who might have a name 5 mismatch between their State ID and their voter 6 registration are disproportionately members of minority 7 group?</p> <p>8 A. I don't know.</p> <p>9 Q. Do you contend that people who may have a 10 discrepancy in the address on their photo ID and voter 11 registration are disproportionately members of minority 12 groups?</p> <p>13 A. I don't know.</p> <p>14 Q. But it's your contention that the photo ID 15 requirement in SB 14 will have a disproportionate impact 16 on indigent voters?</p> <p>17 A. I believe that's the case.</p> <p>18 Q. And you believe that indigent voters will 19 disproportionately be members of minority groups?</p> <p>20 A. The evidence that was put in front of us was that 21 that's the case in population in the State of Texas.</p> <p>22 Q. Is it your contention that a non-indigent 23 African-American voters would be impacted differently 24 than a non-indigent Anglo voter by SB 14?</p> <p>25 A. I don't know.</p>



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	53		55
<p>1 Q. Is it your contention that a non-indigent      2 Hispanic voter would be impacted differently by SB 14      3 than a non-indigent Anglo voter?</p> <p>4 A. What I can tell you from my understanding is that      5 persons who rely on public transportation in the State      6 of Texas, while they may not be indigent, again, are      7 disproportionately represented by members of our      8 African-American and Latino communities. And that many      9 of those persons do not currently possess photo IDs      10 because they don't have a need for a driver's license.      11 And that that, yes, does create a disproportionate      12 impact to members of our minority community.</p> <p>13 Q. Is it your understanding that -- well, of the      14 people who take -- who use public transportation in      15 Texas, is it your understanding that some of those      16 people use public transportation because they don't have      17 a car?</p> <p>18 A. Yes.</p> <p>19 Q. And perhaps because they're indigent?</p> <p>20 A. Perhaps. But, you know, indigency, I think that      21 persons cannot have a car does not necessarily mean that      22 they're indigent.</p> <p>23 Q. Thank you. Is it -- then is it your      24 understanding that non indigent people who use public      25 transportation in Texas are disproportionately</p>		<p>1 currently have driver's licenses in the State of Texas.      2 And I believe that the information that's been requested      3 of the Secretary of State is being requested in order to      4 demonstrate whether that is indeed the case.</p> <p>5 Q. What is your basis for saying that people without      6 a driver's license are disproportionately Latino or      7 African-American?</p> <p>8 A. It's information that was presented to us during      9 these two legislative debates.</p> <p>10 Q. But you can't remember any specific?</p> <p>11 A. I can't recall the specific information, no.</p> <p>12 Q. If it was shown that there was not a significant      13 disparity in ID possession between different racial or      14 ethnic groups, would you support SB 14?</p> <p>15 A. I would support SB 14 if I didn't believe it were      16 going to have a disproportionate impact on persons who      17 are indigent. I introduced an amendment that would have      18 resolved that concern. Unfortunately, that's not part      19 of the law. And I also believe that others will be      20 disenfranchised. I don't believe that it's solely      21 limited to persons in the minority community, though I      22 believe it's certainly the case. With the intention of      23 the bill was to pass it with the understanding that      24 disproportionately members of our minority communities      25 would be disenfranchised as a consequence of it. But I</p>	
<p>1 African-American or Latino?</p> <p>2 A. I believe that public transportation users in the      3 State of Texas, certainly in the district that I      4 represent, are disproportionately members of our      5 African-American and Latino communities. That may not      6 be the case in all cities depending on the quality of      7 their transportation systems. But certainly in the area      8 that I represent it's the case.</p> <p>9 Q. In the area you represent, is it your      10 understanding that the majority of people who use public      11 transportation are indigent?</p> <p>12 A. It's my belief that the majority of people who      13 use public transportation in my district rely on it as      14 their means of moving about and that they do it because      15 they do not have alternative means of transportation.</p> <p>16 Q. And you don't know whether that's because of      17 indigency or some other reason?</p> <p>18 A. No, I don't.</p> <p>19 Q. So is it your testimony, then, that      20 African-American and Latino voters will be      21 disproportionately impacted even if they aren't indigent      22 because they are more likely to use public      23 transportation?</p> <p>24 A. I'm saying that there's a greater percentage of      25 persons who are African-American and Latino who do not</p>	54	<p>1 believe there's a side effect as well. And that some      2 other persons may also be caught unaware and not be able      3 to exercise their legal right to vote in the State of      4 Texas come November if this law is upheld.</p> <p>5 Q. Are you familiar with any polls regarding support      6 for voter ID legislation in Texas?</p> <p>7 A. No.</p> <p>8 Q. Are you aware of whether or not there are      9 non-citizens who will register to vote in Texas?</p> <p>10 A. I am not aware.</p> <p>11 Q. Do you contend that there are not non-citizens      12 registered to vote in Texas?</p> <p>13 A. I don't contend that.</p> <p>14 Q. Do you believe that the expenditure of State      15 resources to take non-citizens off the Texas voter rolls      16 would be a waste of money?</p> <p>17 A. No. But I believe in the recommendations of the      18 Baker-Carter report, that in order to address concerns      19 that that may be the case, that corresponding      20 protections for those who may be caught up in the web of      21 a solution that's too broad should also be addressed and      22 they weren't in Texas.</p> <p>23 Q. Is it your understanding that SB 14 was intended      24 to move non-citizens from voter registration list in      25 Texas?</p>	56



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<p>1 A. I believe that the intention of the bill is as I 2 said earlier. I believe that if the intention of the 3 Attorney General's office were really to address voter 4 fraud in Texas, that absentee voting would have preceded 5 any kind of conversation on addressing voter fraud. 6 Q. You said "the Attorney General's office," did you 7 mean the Legislature? 8 A. Well, yes, but certainly the Attorney General's 9 office has spent multiple millions of dollars trying to 10 ferret out ballot box voter fraud and yet failed to show 11 the same energy or enthusiasm in ferreting out 12 absenteeism ballot fraud. 13 Q. So is it -- are you aware of the cases prosecuted 14 by the attorney general's office, do you know how many 15 of those dealt with mail in ballot fraud? 16 A. No. 17 Q. Do you know what percentage dealt with mail in 18 ballot fraud? 19 A. No. 20 Q. Do you know what percentage dealt with in person 21 voter fraud? 22 A. No. But I certainly know there was a targeted 23 amount of money and effort spent on in person voter 24 fraud. And there was not a corresponding amount of 25 money and effort spent on determining the extent and</p>	<p>57</p> <p>1 in voter fraud? 2 A. No, I don't. 3 Q. Do you believe that elderly voters are less 4 likely than average to have the ID required by SB 14? 5 A. I do. I recall that being part of the 6 Baker-Carter report as well. An amendment was 7 introduced to the Senate bill trying to remove its 8 application from voters, I believe of 65 years of age 9 and above, who were less likely to have photo ID. My 10 recollection was that that amendment was not accepted 11 and instead the floor, I think was set at the age of 70 12 versus 65. I think that's right. 13 Q. Do you recall whether an exemption of exception 14 for elderly voters was part of the final bill? 15 A. I believe there was. Again, I don't remember 16 exactly what the age for it was. 17 Q. Do you believe that disabled voters are less 18 likely than average to have the ID required by SB 14? 19 A. I don't know. 20 Q. Do you believe that rural voters are less likely 21 than average to have the ID required by SB 14? 22 A. I don't know. Though I think it is more 23 difficult for them to get the photo ID that's required. 24 Q. In your understanding was the Legislature aware 25 that rural voters would have a harder time getting the</p>
<p>1 level to which absentee voter fraud might be occurring. 2 Q. But you don't know how much of that money 3 actually resulted in prosecution of mail in voter fraud? 4 A. I recall in our testimony before the Senate that 5 there was a very, very small number of in person voter 6 fraud cases that were discovered in spite of that 7 investigation. 8 Q. And is it your recollection that there was a 9 higher proportion of mail in ballot fraud? 10 A. I don't recall. 11 Q. But if there were a higher proportion of mail in 12 ballot fraud that was discovered and prosecuted with the 13 money that you were referring to, then it would not be 14 accurate to say that there was not an effort to target 15 mail in ballot fraud? 16 A. I think it would be, certainly support for my 17 earlier statement that if that revealed a greater 18 percentage of mail in voter fraud occurring and yet 19 there were no pieces of legislation advanced to address 20 it, that that is evidence that one voter fraud is being 21 ignored where another one is being addressed. 22 Specifically because of the persons who will be impacted 23 by one law and not the other. 24 Q. But you don't have any understanding of the 25 relative difficulty if prosecuting in person versus mail</p>	<p>58</p> <p>1 ID required by SB 14? 2 A. I don't recall. 3 Q. Do you believe that SB 14 was enacted for the 4 purpose of keeping rural voters from voting? 5 A. No, I do not. 6 Q. Why not? 7 A. I don't. I simply don't. 8 Q. But you believe that because it would be more 9 difficult for a rural voter to obtain the ID, there 10 might be a disparate impact on rural voters; is that 11 right? 12 A. There might be. 13 Q. Did the proponents of SB 14 express any concern 14 for rural voters? 15 A. Not that I recall. 16 Q. Do you believe they were indifferent to rural 17 voters? 18 A. I don't have a belief one way or the other. 19 Q. But you've testified that you believe the lack of 20 concern shown for minority voters indicates 21 indifference; is that right? 22 A. As part of the debate on SB 14, one of the 23 arguments that I recall being made by members who 24 represent minority rural communities was that their 25 voters would have a harder time meeting the requirements</p>



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<p>1 of getting a photo ID. And arguments were made that in 2 order for the bill not to have a disproportionate impact 3 on those persons, that resources needed to be committed 4 to enhancing the opportunity to access photo ID through 5 the location of DPS offices that could support that need 6 and the expansion of hours that could allow that. I 7 recall those arguments being made.</p> <p>8 Q. When you say "people who represent minority rural 9 communities," what do you mean by that?</p> <p>10 A. I mean members of the Senate who represent 11 minority rural communities. I don't recall any Anglo 12 member who represents an Anglo rural community 13 expressing a concern on behalf of their rural voters.</p> <p>14 Q. Do Anglo Senators who represent rural 15 communities, don't they also represent rural minority 16 voters?</p> <p>17 A. Some do. Some don't. Not what we would consider 18 a majority community where the majority of the persons 19 are minority.</p> <p>20 Q. To qualify a minority rural community it would 21 have to be 50 percent?</p> <p>22 A. Yes. For example, some of the expressed concerns 23 were specific to the Valley area, to the Colonians, to 24 areas where people don't have the resources to access a 25 DPS office. Not because they live in a rural community,</p>	<p>61</p> <p>1 Q. Do you have any knowledge that it would be easier 2 for a resident of a rural community outside the Valley, 3 would it be easier for that person to access a DPS 4 office than a member of a rural community in the Valley?</p> <p>5 A. I'll just answer the question again this way. 6 It's easier for a person in a rural community who has a 7 car and a means of transportation to get to a DPS office 8 and to get a driver's license than it is for someone who 9 lives in a rural community and does not have a means of 10 transportation to get a driver's license.</p> <p>11 Q. Is it your understanding that members of the 12 rural communities in the Valley have less access to 13 transportation to cars than members of other rural 14 communities in Texas?</p> <p>15 A. It is my understanding that persons who are in 16 low-income communities have a greater challenge in terms 17 of access to transportation than those who do not fit 18 within that category.</p> <p>19 Q. Do you have any understanding as to the relative 20 income levels or access to transportation in rural 21 communities in any part of the State of Texas?</p> <p>22 A. Well certainly we have areas in the State of 23 Texas that are poor, much more poor than others. Those, 24 again, disproportionately are comprised of persons who 25 are Latino primarily, and in lesser regard,</p>
<p>1 but because they live in a rural community without 2 public transportation and they don't possess a vehicle 3 to have the capacity to transport them. That's the 4 distinguishing feature between some who live in rural 5 communities who may have a harder time going to get a 6 driver's license because it's far away from those who 7 live in a rural community who simply will not be able to 8 get a photo ID because they have no means of 9 transportation to get to the DPS office to begin with. 10 That was a distinguishing argument made about why there 11 was a disproportionate impact on persons who fall within 12 our low-income, minority, rural communities versus those 13 who do not fall within that category.</p> <p>14 Q. Is it your understanding that it is easier for 15 voters who live in non-minority rural communities to get 16 to a DPS office?</p> <p>17 A. It's easier for someone who has a car or a means 18 of transportation to get to a DPS office than it is for 19 someone who does not. And again, arguments were made, 20 information was put into the record about what the 21 impact to persons in our low-income, minority, rural 22 communities would be. With members giving, I thought, 23 very compelling testimony about what the impact of 24 persons who lived in their community would be. Where 25 there was simply no way for them to go to a DPS office.</p>	<p>62</p> <p>1 African-American.</p> <p>2 Q. In talking about the rural minority communities 3 that have problems with access to public transportation 4 and vehicles, is it your understanding that an Anglo 5 voter living in that kind of community, say a rural 6 community in the Valley, would be affected less than a 7 Latino member of that community by SB 14?</p> <p>8 A. My distinction is not whether someone is Anglo or 9 Latino or African-American. The distinction is income 10 level, poverty, and the ability to access 11 transportation. I believe it's the case that 12 disproportionately, that impacts persons in the minority 13 community. It certainly, I am sure, impacts persons who 14 are Anglo as well who fit within that category of being 15 low-income and having no access to transportation.</p> <p>16 Q. Is it your understanding that younger voters are 17 less likely to have a form of ID required by SB 14?</p> <p>18 A. I don't know.</p> <p>19 Q. Do you know how many Texas registered voters lack 20 the form of ID required by SB 14?</p> <p>21 A. I don't know. I will certainly asked that 22 question.</p> <p>23 Q. Do you know how many of your constituents don't 24 have one of the forms of ID required by SB 14?</p> <p>25 A. No. And again, I sought that information and was</p>



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<p>1 not given it.</p> <p>2 Q. I know you mentioned that the information was</p> <p>3 sought statewide. How did you seek that information</p> <p>4 about your constituents?</p> <p>5 A. I recall asking that as part of either the Senate</p> <p>6 hearing or perhaps outside the Senate hearing.</p> <p>7 Q. Did you ever attempt to survey your constituents</p> <p>8 to see who lacked a photo ID required by SB 14?</p> <p>9 A. No, I don't.</p> <p>10 Q. Can you identify any one of your constituents who</p> <p>11 lacks one of the IDs required by SB 14?</p> <p>12 A. No, I cannot.</p> <p>13 Q. Are you aware or can you identify any specific</p> <p>14 Texas registered voter who lacks one of the forms of ID</p> <p>15 required by SB 14?</p> <p>16 A. No, I cannot.</p> <p>17 Q. Do you know how many of your constituents do not</p> <p>18 have the underlying documents necessary to get a photo</p> <p>19 ID?</p> <p>20 A. No, I don't.</p> <p>21 Q. Can you identify any specific constituents who</p> <p>22 lacks the documents necessary to get a photo ID?</p> <p>23 A. No, I cannot.</p> <p>24 Q. Can you identify any particular Texas registered</p> <p>25 voter who lacks the documents necessary to get a photo</p>	<p>65</p> <p>1 the State of Texas to make that determination as part of</p> <p>2 the preclearance process for SB 14?</p> <p>3 A. I believe that the Secretary of State has been</p> <p>4 asked to do that. I don't know what the status of that</p> <p>5 is.</p> <p>6 Q. Are you -- do you know whether or not the</p> <p>7 Secretary of State has tried to do that?</p> <p>8 A. I don't know.</p> <p>9 Q. You mentioned earlier that you were -- that you</p> <p>10 had read the Crawford case out of Indiana. Are you</p> <p>11 familiar from that or any other source of -- are you</p> <p>12 familiar with the levels of photo ID possession by</p> <p>13 voters in Indiana?</p> <p>14 A. No.</p> <p>15 Q. So you -- you don't know whether -- whether</p> <p>16 African-American voters, for example, in Indiana possess</p> <p>17 photo IDs at a higher rate than African-Americans in</p> <p>18 Texas?</p> <p>19 A. No, I don't.</p> <p>20 Q. And would the same be true for Anglo and Asian</p> <p>21 and Hispanic voters?</p> <p>22 A. That's correct.</p> <p>23 Q. Do you contend that the Texas Legislature</p> <p>24 specifically intended to harm African-American voters by</p> <p>25 enacting SB 14?</p>
<p>1 ID?</p> <p>2 A. No.</p> <p>3 Q. Are you familiar with the levels of photo ID</p> <p>4 possession by different racial and ethnic groups in</p> <p>5 Texas? And by levels, I mean the proportion of ID</p> <p>6 possession?</p> <p>7 A. No, I don't have particular information about</p> <p>8 that.</p> <p>9 Q. So you don't know what percentage of registered</p> <p>10 African-American voters have a photo ID?</p> <p>11 A. No, I do not.</p> <p>12 Q. And would the same go for Anglo, Asian, Hispanic</p> <p>13 voters?</p> <p>14 A. Correct. What I would say is we certainly should</p> <p>15 have known that before we passed the law that would</p> <p>16 affect so many people.</p> <p>17 Q. Do you know how that would be determined, how one</p> <p>18 would go about determining the level of ID possession by</p> <p>19 various ethnic groups in Texas?</p> <p>20 A. Well, I know the Department of Justice is</p> <p>21 certainly trying to get at the heart of that right now</p> <p>22 by asking the discrepancy of persons who have a driver's</p> <p>23 license in the State of Texas versus those who have</p> <p>24 voter identification cards in the State of Texas.</p> <p>25 Q. Are you aware of any efforts by or on behalf of</p>	<p>66</p> <p>1 A. Yes, I do.</p> <p>2 Q. And at the risk of asking you to repeat yourself,</p> <p>3 can you explain to me the basis for that belief?</p> <p>4 A. I'll tell you broadly, and then more narrowly.</p> <p>5 Broadly, this session was certainly characterized by</p> <p>6 what I believe was an unprecedented number of pieces of</p> <p>7 legislation that disproportionately impacted our</p> <p>8 minority communities in the State of Texas, particularly</p> <p>9 African-American and Latinos. Both the redistricting</p> <p>10 efforts that were made and the disenfranchisement that</p> <p>11 would occur as a consequence of the maps that were drawn</p> <p>12 through that process. Legislation that was advanced</p> <p>13 under the sanctuary city legislation that would have</p> <p>14 essentially created local police force, immigration</p> <p>15 officers specifically, to have a negative impact in our</p> <p>16 Latino community. Pieces of legislation that were</p> <p>17 advanced in order to remove undocumented persons from in</p> <p>18 State tuitions in the State of Texas as currently exist.</p> <p>19 I think this piece of legislation was part and</p> <p>20 parcel of a broader and purposeful effort to</p> <p>21 discriminate against minorities in the State of Texas.</p> <p>22 More specifically, as I said to you before, I believe</p> <p>23 that valid information was presented to the body of the</p> <p>24 Senate that this legislation would have a</p> <p>25 disproportionate impact on members of the minority</p>



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<p>1 community. That information was part of the record.      2 That information was not disputed by members who      3 advanced this legislation. And efforts to help to      4 alleviate that disproportionate impact while maintaining      5 the integrity of the photo ID bill were ignored, for the      6 most part, without so much as even a discussion about      7 whether to consider the legitimacy of those      8 enhancements. I believe, collectively, all of that      9 points to a purposeful effort to suppress minority vote.</p> <p>10 Q. Is it possible that the amendments that you      11 believe would have improved the bill and not reduced its      12 effectiveness, is it possible that the proponents of the      13 bill believed that they would reduce the effectiveness      14 of the bill while combatting voter fraud?</p> <p>15 A. I can't say that that's the case. Senator Duncan      16 advanced, as I said, the indigent amendment that I had      17 initially introduced. I don't know whether he did that      18 thinking like a lawyer and wants to make sure that the      19 photo ID in the State of Texas could withstand the same      20 constitutional scrutiny as occurred in the Indiana case      21 or whether he, in his heart, agreed with me that that      22 was the right thing to do so as to not disenfranchise      23 currently franchised voters.</p> <p>24 But I do know that he moved that amendment in,      25 that it was accepted and then it was stripped out. And</p>	<p>69</p> <p>1 better way to say it than that.      2 Q. Do you contend that individual legislators voted      3 in favor of SB 14 for the specific purpose of harming      4 African-American voters?      5 A. Yes, I do.      6 Q. Who do you contend voted for SB 14 for the      7 specific purpose of harming African-American voters?      8 A. Every person who voted for it.      9 Q. Does that include House members and Senate      10 members?      11 A. Yes. Put a better way, I think they had flagrant      12 disregard for whether African-American voters would be      13 impacted by the voter ID bill. That's a better way to      14 say it. That's how I would prefer to say it.      15 Q. Well, I mean, do you or do you not contend that      16 individuals voted for SB 14 for the purpose of harming      17 African-American voters?      18 A. I believe they had flagrant disregard for whether      19 it would harm African-American voters. But I believe      20 that the bill's author, and in both the House and the      21 Senate, had a very purposeful intention of that      22 occurring.      23 Q. You believe that the bill's authors sponsored and      24 voted for SB 14 because they wanted to harm      25 African-American voters; is that right?</p>
<p>1 an amendment is not stripped from a bill without      2 purposeful action to make that happen. And I do not      3 believe that that amendment was removed for any reason      4 other than the fact that it would have weakened what was      5 the intention of the bill in terms of who would be      6 impacted by it.      7 Q. So you believe that the provision that would have      8 provided an exception for indigent voters was removed      9 from the bill specifically to increase the negative      10 impact?      11 A. Yes, I do.      12 Q. On minority voters; is that right?      13 A. Yes, I do.      14 Q. Has anybody said anything to you that supports      15 that belief?      16 A. No. But no one has otherwise argued a reason for      17 not including it that went to any other purpose.      18 Q. And you don't think it's possible that that      19 provision was removed from the bill out of a sincere      20 belief that it would reduce the bill's effectiveness?      21 A. That's not my belief.      22 Q. Is there anything specific that that bill is      23 based on?      24 A. Four years in the Texas Legislature and my      25 understanding of the way things are there. I have no</p>	<p>70</p> <p>1 A. I believe they wanted to disenfranchise current      2 voters in the African-American and Latino communities,      3 yes, disproportionately.      4 Q. What is your basis for that belief about the      5 bill's authors?      6 A. I feel that we keep going round and round on this      7 question. Again, more information has been advanced      8 with regard to voter fraud in the absentee ballot arena.      9 It was specifically pointed out to the bill's author as      10 part of his introduction to this bill. That were his      11 concern truly voter fraud, that his effort and energy      12 and legislative direction would have been aimed toward      13 that purpose. And he was unable to answer why he chose,      14 instead, to concentrate his energies on an arena where a      15 very, very small amount of fraud had ever been      16 demonstrated in the face of an understanding that      17 persons would be disenfranchised as a consequence of      18 such a law being put in place.      19 Q. You assume that the bill's authors had an      20 understanding that people would be disenfranchised?      21 A. Absolutely. Chairman information was presented      22 that demonstrated that that was the case.      23 Q. And you believe that that -- it's your contention      24 that that information was irrefutable and indisputable?      25 A. I believe that it was extremely compelling. And</p>



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<p>1 that in the face of understanding that that might occur, 2 a person who had concern for that impact would have 3 acted otherwise in terms of their willingness to accept 4 amendments that might address it.</p> <p>5 Q. So if somebody did not find the evidence as 6 compelling as you did or that other members might have, 7 it's -- you infer from that that they were acting 8 because they wanted to hurt minority voters; is that 9 right?</p> <p>10 A. That's my inference.</p> <p>11 Q. Did any of the bill's authors ever say anything 12 to you that expressly stated their intent to harm any 13 minority voter?</p> <p>14 A. No.</p> <p>15 Q. Did any member of the legislature ever make a 16 statement to you or to anybody else that you're aware 17 of, that they supported SB 14 because they wanted to 18 harm minority voters?</p> <p>19 A. No.</p> <p>20 Q. Do you contend that the legislature intended to 21 harm Asian-American voters by introducing SB 14?</p> <p>22 A. I don't have an opinion on that.</p> <p>23 Q. Do you contend that the legislature intended to 24 harm poor people by passing SB 14?</p> <p>25 A. I believe that the legislature understood there</p>	<p>73</p> <p>1 A. Yes.</p> <p>2 Q. Would you consider that an important duty of any 3 elected official to represent constituents and represent 4 policy that constituents favor?</p> <p>5 A. Yes.</p> <p>6 Q. Is there anything wrong with a representative 7 voting for a policy that's favored by his or her 8 constituents?</p> <p>9 A. No.</p> <p>10 Q. Is it political rational for an elected official 11 to vote for a policy that's favored by his or her 12 constituents?</p> <p>13 A. Well, it's politically rational. Is it always 14 right? Perhaps not. Certainly it's been the case in 15 the history of the United States that there were 16 sentiments that part of the political process that were 17 expressly centered at discriminatory purposes. Do I 18 believe that a person who's elected by his constituents 19 should advance something that's motivated by those 20 beliefs, no. Do I believe that all persons who favor 21 voter ID in the State of Texas are motivated by racially 22 discriminatory intent, no. But I believe that most 23 people in our communities don't really understand the 24 impact that such a law can have on members of the 25 minority community. Nor do I think they understand the</p>
<p>1 would be a disproportionate impact on poor people. And 2 that those populations were disproportionately minority.</p> <p>3 Q. Do you believe the legislature intended to harm 4 elderly people by passing SB 14?</p> <p>5 A. No, I don't. Not as a group, no.</p> <p>6 Q. Do you believe that any legislator intended to 7 harm elderly people by passing SB 14?</p> <p>8 A. No, I don't. Not specifically.</p> <p>9 Q. Well, is it your testimony that you believe SB 14 10 will disproportionately impact elderly people?</p> <p>11 A. I didn't say that.</p> <p>12 Q. Okay. I should have phrased my question 13 differently. I meant to just ask if that was your 14 contention?</p> <p>15 A. I don't have any understanding that that's the 16 case.</p> <p>17 Q. Understood. Other than your understanding of the 18 effect of SB 14 and awareness of that effect on the part 19 of proponents of the bill, is there any other basis for 20 your contention that this bill was passed with a 21 discriminatory purpose?</p> <p>22 A. No.</p> <p>23 Q. Would you agree that members of the Texas 24 Legislature have a duty to represent their 25 constituents?</p>	<p>74</p> <p>1 nuances of how a photo ID bill can be improved, such 2 that that disproportionate impact is minimized as much 3 as possible. That's our job as legislators to really 4 understand the nuances of the laws that we advance.</p> <p>5 Q. So it's not your contention that the majority of 6 people in Texas who support voter ID support it for an 7 illegitimate reason?</p> <p>8 A. Absolutely not.</p> <p>9 Q. And you don't contend that the majority of people 10 in Texas who support voter ID believe it will have a 11 disproportionate impact on racial minorities?</p> <p>12 A. No, I do not believe that.</p> <p>13 Q. And it's accurate to say, isn't it, that the 14 majority of voters in Texas support voter ID 15 legislation; is that right?</p> <p>16 A. I don't know.</p> <p>17 Q. Do you have any basis to dispute the majority of 18 voters in Texas support voter ID legislation?</p> <p>19 A. No, I don't.</p> <p>20 Q. So if a representative or a senator whose 21 constituents overwhelmingly favored voter ID, voted for 22 a voter ID bill, was there anything wrong with that?</p> <p>23 A. I believe if they voted for a voter ID bill where 24 evidence had been put in front of them, such that 25 persons who were minority would be disproportionately</p>



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<p>1 impacted by it and that there were ways to improve upon 2 it, then I do think there's something wrong with that. 3 Q. What if an elected official didn't believe that 4 it would have -- that SB 14 or any voter ID bill would 5 have a disproportionate racial impact, if they sincerely 6 believed that, would there be any illegitimate purpose 7 in their voting for the bill? 8 A. I can't be in the mind of every legislator, 9 obviously. I can only be in my own mind. What I can 10 tell you is I believe compelling information was 11 produced that should have raised those concerns in the 12 minds of reasonable people. And that solutions that 13 were advanced that could have eased those concerns 14 merited consideration. 15 Q. So you mentioned "reasonable people." Do you 16 believe that -- do you believe that if a legislator who 17 had considered all the evidence that you considered did 18 not -- still did not believe that there would be a 19 disproportionate racial impact of SB 14, do you believe 20 that would be an unreasonable belief? 21 A. Yes. I don't know how they could really 22 understand it otherwise, with all of the information 23 that was put in front of us. 24 Q. If a legislator voted for SB 14 based on a 25 sincere, but maybe unreasonable belief in its effect,</p>	<p>77</p> <p>1 Q. Did you send any letters or e-mails to DOJ about 2 SB 14? 3 A. I did not, not that I recall. 4 Q. Do you remember about how long your telephone 5 conversations lasted with DOJ? 6 A. I had two conversations. Each lasted probably 7 between 30 minutes and an hour. 8 Q. Do you recall what you discussed with the 9 Department of Justice? 10 A. My recollection of the debate about the bill, the 11 amendments that I introduced and that others introduced. 12 Q. Do you recall whether the Department of Justice 13 asked you if you believed SB 14 was passed with a 14 discriminatory purpose? 15 A. I don't recall them asking me that question 16 specifically. 17 Q. Do you recall that the Department of Justice 18 asked you if you believed SB 14 would have a 19 discriminatory effect? 20 A. I don't recall them specifically asking me that. 21 Q. Do you recall whether you told the Department of 22 Justice that SB 14 would have a discriminatory effect? 23 A. I don't recall. 24 Q. Do you recall whether you told the Department of 25 Justice that SB 14 had a discriminatory intent?</p>
<p>1 would that be an act of intentional discrimination? 2 A. Not as you just described it. 3 Q. Other than your lawyer, have you discussed this 4 lawsuit with anybody? 5 A. No, I have not. 6 Q. You haven't discussed this lawsuit with any of 7 the parties to the lawsuit? 8 A. No, I have not. 9 Q. Have any of the parties to this lawsuit asked you 10 to testify? 11 A. Any of the parties? 12 Q. Uh-huh. 13 A. No. 14 Q. Did you speak with anybody at the Department of 15 Justice about Senate Bill 14? 16 A. Yes, I did. 17 Q. With whom did you speak? 18 A. I don't recall. 19 Q. Did you talk to the DOJ over the telephone? 20 A. Yes, I did. 21 Q. How many times did you speak to DOJ? 22 A. Twice. 23 Q. Do you remember, roughly, when that was? 24 A. Within the last six months. That's as best I can 25 tell you.</p>	<p>78</p> <p>1 A. I don't recall. 2 Q. Did the Department of Justice ask you to provide 3 a declaration in this lawsuit? 4 A. Not that I recall. 5 Q. Did they ask you to provide any kind of statement 6 in this lawsuit? 7 A. Not that I recall. 8 Q. Did they ask you to provide -- did the Department 9 of Justice ask you to provide any declaration before 10 this lawsuit for purposes of preclearance? 11 A. Not that I recall. 12 Q. Has the Department of Justice asked you to 13 provide any testimony in this lawsuit? 14 A. No, they've not. 15 Q. Has the Department of Justice asked you to do 16 anything in this lawsuit? 17 A. No, they've not. 18 MR. FREDERICK: At this time I would reserve 19 all further questions for the time of trial. Pass the 20 witness. 21 MR. DUNN: Thank you, Mr. Frederick. Do you 22 have any questions, Department of Justice? 23 MR. WILLIAMSON: Department of Justice has 24 no questions. 25 MR. DUNN: Great. We'll reserve for trial.</p>



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1 Thank you.  
 2 (Deposition concluded.)  
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1 I, SENATOR WENDY DAVIS, have read the foregoing  
 2 deposition and hereby affix my signature that same is  
 3 true and correct, except as noted above.  
 4  
 5 SENATOR WENDY DAVIS  
 6 THE STATE OF TEXAS )  
 7 )  
 8 COUNTY OF \_\_\_\_\_)  
 9 Before me, \_\_\_\_\_, on this day  
 10 personally appeared SENATOR WENDY DAVIS, known to me (or  
 11 proved to me under oath or through  
 12 (description of identity card or other document) to be  
 13 the person whose name is subscribed to the foregoing  
 14 instrument and acknowledged to me that they executed the  
 15 same for the purposes and consideration therein  
 16 expressed.  
 17 Given under my hand and seal of office this \_\_\_\_\_  
 18 day of \_\_\_\_\_.

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 12 NOTARY PUBLIC IN AND FOR  
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1 CHANGES AND SIGNATURE  
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1 IN THE UNITED STATES DISTRICT COURT  
 2 FOR THE DISTRICT OF COLUMBIA  
 3  
 4 STATE OF TEXAS )  
 5 )  
 6 VS. ) NO. 12-CV-128  
 7 ) (DST, RMC, RLW)  
 8 ERIC H. HOLDER, JR., )  
 9 ET AL )  
 10 \*\*\*\*\*  
 11 CERTIFICATE FROM THE  
 12 ORAL DEPOSITION OF  
 13 SENATOR WENDY DAVIS  
 14 \*\*\*\*\*

15 I, Janalyn Reeves, a Certified Shorthand Reporter  
 16 in and for the State of Texas, do hereby certify that  
 17 the foregoing deposition is a full, true and correct  
 18 transcript;  
 19 That the foregoing deposition of SENATOR WENDY DAVIS,  
 20 the Witness, hereinbefore named was at the time named,  
 21 taken by me in stenograph on June 6, 2012, the said  
 22 Witness having been by me first duly cautioned and sworn  
 23 to tell the truth, the whole truth, and nothing but the  
 24 truth, and the same were thereafter reduced to  
 25 typewriting by me or under my direction. The charge for  
 the completed deposition is \$\_\_\_\_\_ due from  
 Plaintiff  
 () That pursuant to the Federal Rules of Civil  
 Procedure, the Witness shall have 30 days after being  
 notified by certified mail, return receipt requested, by  
 the deposition officer that the original deposition

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1 transcript is available in her office for review and  
 2 signature by the Witness and if any corrections made are  
 3 attached hereto;  
 4       () That by agreement of counsel, a reading condensed  
 5 copy of the deposition transcript along with the  
 6 full-size original changes and Signature Sheet has been  
 7 sent to \_\_\_\_\_ on \_\_\_\_\_ for review and  
 8 signature within 30 days and if any corrections returned  
 9 are attached hereto;  
 10     () That by agreement of counsel, the deposition  
 11 officer is instructed to release the original deposition  
 12 transcript to \_\_\_\_\_ on \_\_\_\_\_, for review and  
 13 signature, and the deposition officer is thereafter  
 14 released of any further responsibility with regard to  
 15 the original.  
 16     () That the Witness shall have thirty (30) days for  
 17 review and signature of the original transcript and if  
 18 any corrections returned are attached hereto.  
 19     () That the signed transcript () was () was not  
 20 received from the Witness within 30 days.  
 21     () That the examination and signature of the Witness  
 22 is waived by the Witness and the parties;  
 23     That the amount of time used by each party at the  
 24 deposition is as follows:  
                   Mr. Matthew Frederick - 2 hours 9 min  
 25            Mr. Chad Dunn - no time

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1 I further certify that I am neither counsel for,  
 2 related to, nor employed by any of the parties in the  
 3 action in which this proceeding was taken, and further  
 4 that I am not financially or otherwise interested in the  
 5 outcome of the action.  
 6                   WITNESS MY HAND, this the \_\_\_\_\_ day  
 7 of \_\_\_\_\_, A.D., 2012.

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8                   \_\_\_\_\_  
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<b>A</b>	25:4 34:16 36:9,13 58:14 76:13 <b>ability</b> 42:2 50:24 51:3,6,10 64:10 <b>able</b> 10:24 11:5 14:2 37:9 56:2 62:7 <b>abridging</b> 36:22 37:2,20 <b>absent</b> 40:12 <b>absentee</b> 40:14,18,21 41:1 43:15 45:2,5 57:4 58:1 72:8 <b>absenteeism</b> 57:12 <b>absolute</b> 39:14 <b>Absolutely</b> 72:21 76:8 <b>accept</b> 8:1 73:3 <b>acceptable</b> 10:15 14:18 <b>accepted</b> 7:21 9:5 12:8 31:13 59:10 69:25 <b>access</b> 61:4,24 63:3, 12,17,20 64:3,10,15 <b>accommodation</b> 9:23 <b>accurate</b>	14:24 <b>administratio</b> n 45:15 46:1 <b>administrator</b> 14:16 <b>administrator</b> s 14:9 <b>adopted</b> 22:22 23:1 <b>act</b> 78:1 <b>acted</b> 28:6 73:3 <b>acting</b> 73:7 <b>action</b> 70:2 86:3,5 <b>added</b> 12:22 32:17 <b>address</b> 13:6 14:5 33:20 40:20 41:3,6 42:8 43:20 45:14 46:2 52:10 56:18 57:3 58:19 73:4 <b>addressed</b> 7:23 26:12 40:14,24 41:15 42:25 43:17 44:22 45:21 46:19 56:21 58:21 <b>addressing</b> 45:11 46:1 57:5 <b>adequate</b> 12:2 30:21 <b>administer</b>	<b>affidavit</b> 9:1,4,16 11:10 <b>affix</b> 83:1 <b>afford</b> 11:6 38:8 <b>African</b> 49:10 <b>African -</b> <b>American</b> 11:19 12:6 36:22 37:7, 12,15,21 39:7 13,14,20 24:18 31:1 35:3 <b>advance</b> 22:7 24:8 26:22 31:7 49:20 75:19 76:4 <b>advanced</b> 21:7 22:2,18, 24 23:12,16, 18 24:4,7,23 29:24 41:4 42:4 45:20 58:19 68:12, 17 69:3,16 72:7 77:13 <b>advancement</b> 47:24 <b>advancing</b> 23:3 40:12 41:7 47:1 <b>advocacy</b> 16:9,25 <b>Affairs</b> 32:3,11,12 <b>affect</b> 23:23 66:16	1:14 85:4,10 <b>ahead</b> 18:18 27:3 <b>aimed</b> 72:12 <b>AL</b> 1:6 84:6 <b>alarming</b> 46:21 <b>alleviate</b> 46:20 69:4 <b>alleviated</b> 11:11,13 <b>allow</b> 9:5 28:1 33:13 46:18 61:6 <b>allowed</b> 9:1 13:16 22:10 23:4 33:7,23 34:2 51:1 <b>allowing</b> 8:1 11:9 51:9 <b>allows</b> 24:5 25:10 <b>along</b> 85:5 <b>already</b> 39:16 <b>also</b> 5:3,14 8:15 9:15 10:16,18 11:16 12:7, 15,23 20:7 22:6,17 32:3 37:11 38:19 48:9 55:19 56:2,21 61:15 <b>alternative</b> 54:15 <b>although</b>
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